



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,499	08/22/2003	Daniel S. Choi	217 P 927	9670

7590 01/29/2007
BAKER & MCKENZIE LLP
DAVID ROCHE
130 E. RANDOLPH DRIVE
CHICAGO, IL 60601

EXAMINER

PUROL, DAVID M

ART UNIT	PAPER NUMBER
----------	--------------

3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

10646499

EXAMINER

ART UNIT

PAPER

01222007

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents


Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Previously submitted claims 1-26, drawn to a shelf, classified in class 211, subclass 134.
- II. Newly presented claims 27-44 drawn to a barbecue grill assembly, classified in class 126, subclass 41R.

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed. It is noted that claims 27-30, drawn to the combination, do not require a quick release member having a detent, a spring member, nor a shelf having a bottom wall and sidewall, as required by the originally presented subcombination claims. As such claims 27-30 are evidence that the combination does not rely upon the specific details of the subcombination for its patentability. The subcombination has separate utility such as a shelf in a kitchen cabinet. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-44 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on August 4, 2006 canceling all claims drawn to the constructively elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment.


David M. Puro
Primary Examiner
Art Unit: 3634